



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/600,436 | 06/23/2003 | Peter Hinsperger | 3061-40.1A CIP | 6285 |

7590 03/15/2004

McFadden, Fincham
Suit 606
225 Metcalfe Street
Ottawa, ON K2P 1P9
CANADA

EXAMINER

VALENTI, ANDREA M

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/600,436 | Applicant(s) HINSPERGER, PETER | |
| | Examiner Andrea M. Valenti | Art Unit 3643 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 10/075,280.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 4, 6, 7, 8, 9, 10 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3, 4, 6, 7, and 9 contain the statement 'said layer'; however, it is not clear which layer the applicant is referring to since in the independent claim the applicant has identified a heat absorbing layer and a heat reflective layer. Clarification is requested. For examination purposes the examiner has identified the 'uniform layer' as the 'said layer'.

Claims 8 and 10 are dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,605,007 to Hinsperger in view of U.S. Patent No. 6,161,362 to Forbis.

Regarding Claims 1, 7, 9, 11-13, 15, and 17, Hinsperger teaches a cover and method for grass protection with a composite layer composed of an open mesh weave of thermoplastic material, the weave having a warp and weft strips forming a substantially thin uniform layer having opposed surfaces, the mesh defining individual slits extending through the layer (Hinsperger Fig. 5 and abstract). Hinsperger teaches different colors and different thermal fusion temperatures (Hinsperger Col. 3 line 18-19 and 65-66), but does not explicitly teach a discontinuous heat absorbing layer on one of the opposed surfaces and a discontinuous heat reflective layer on the other of the opposed surface. However, Forbis teaches that it is old and notoriously well-known to coat a thermoplastic material to create a heat absorbing layer on one side and a heat reflective layer on the other side (Forbis Col. 4 line 8-15 and 47-50 and Fig. 6). It would have been obvious to one of ordinary skill in the art to modify the teachings of Hinsperger with the teachings of Forbis at the time of the invention for known desired thermal properties to meet the needs of different plant varieties.

Regarding Claims 3, 4, 14, and 18-20, Hinsperger as modified teaches the layer covers between about 5-60% or 10-40% or 5-80% of each surface of the composite layer (Hinsperger Col. 3 line 58-59, abstract, and Col. 2 line 7).

Regarding Claims 5 and 6, Hinsperger as modified teaches the thermoplastic material is a polyolefin and more specifically a polyethylene (Hinsperger Col. 1 line 23 and Col. 3 line 14).

Regarding Claim 8, Hinsperger as modified teaches the coloring agent is selected from green, blue, brown and black (Forbis Col. 4 line 13).

Regarding Claim 10, Hinsperger as modified teaches the coloring agent is selected from the color white, silver, gold and bronze (Forbis Col. 4 line 10).

Regarding Claim 16, Hinsperger as modified teaches the coating is extruded on the mesh weave (Hinspereger Col. 3 line 53).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,605,007 to Hinsperger as applied to claim 1 above, and further in view of U.S. Patent No. 5,729,929 to Burke.

Regarding Claim 2, Hinspeger as modified is silent on the thickness of the layer on each side having thickness of at least 0.5 mil. However, Burke teaches that it is old and notoriously well-known to manufacture ground covers with multiple layers of a thickness of at least 0.5 mil (Burke Col. 7 line 60-65). It would have been obvious to one of ordinary skill in the art to modify the teachings of Hinsperger with the teachings of Burke at the time of the invention since the modification is merely a change in size to achieve certain manufacturing cost parameters and does not present a patentably distinct limitation.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Japanese Patent JP 2002320413A; United Kingdom Patent GB 2098247; U.S. Patent No. 5,336,457; U.S. Patent No. 4,644,684; Japanese Patent JP 409107815A; Japanese Patent JP 59154923A; Japanese Patent JP 10290635A; Japanese Patent JP

Application/Control Number: 10/600,436
Art Unit: 3643

Page 5

2003018926A; Japanese Patent JP 07298793; Japanese Patent JP 10290635A;
Japanese Patent JP 2000032856.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Examiner
Art Unit 3643

09 March 2004


Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600